



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.nv.gov>

Thursday, March 9, 2006
9:00 a.m.

Boardroom of the State of Nevada Contractors' Board
Meridian Gold Building
9670 Gateway Drive, First Floor #100
Reno, Nevada 89511

and via videoconference:

State Contractors' Board Hearing Room
2310 Corporate Circle #200
Henderson, Nevada 89074

MINUTES

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.
A verbatim transcript of the open session proceedings, prepared by a certified court reporter,
is available for inspection at the Commission offices in Carson City and Las Vegas.

Commission Members Present (in Reno):
Caren Jenkins, Esq., Chairman; Rick Hsu, Esq.;
George Keele, Esq.; Jim Kosinski, Esq.

Commission Members Present (in Las Vegas):
Randall Capurro; Timothy Cashman; William Flangas

Commission Member Absent and Excused:
Mark A. Hutchison, Esq., Vice Chairman

Commission on Ethics Staff Present (in Reno):
Stacy M. Woodbury, MPA, Executive Director
Emily H. Nunez, Office Manager

Commission on Ethics Staff Present (in Las Vegas):
Adriana G. Fralick, Esq., General Counsel
Tami DeVries, Research Analyst

Others Present:
Neil A. Rombardo, Senior Deputy Attorney General
Michael Montandon, Mayor, City of North Las Vegas
Media representatives

Chairman Jenkins called the meeting to order at 9:10 a.m., Thursday, March 9, 2006.

Agenda Item 1 – Open session to approve the minutes of the January 11-12, 2006 and February 8, 2006 Commission meetings

Chairman Jenkins opened the agenda item to approve the minutes of the January 11-12, 2006 and February 8, 2006 Commission meetings. Commissioner Keele made a motion to approve the minutes. Commissioner Hsu seconded the motion. The motion passed unanimously, with Commissioner Cashman abstaining from voting on the January minutes because he served on the panel for Request for Opinion 04-77 and thus was precluded from participating in the January hearing.

Agenda Item 2 – Request for Opinion 06-03

Closed session pursuant to NRS 281.511(5) to hear testimony, receive evidence, deliberate, and render an opinion relating to a confidential Advisory Opinion Request submitted pursuant to NRS 281.511, Subsection 1.

Agenda Item 3 - Closed session pursuant to NRS 281.511(13)

Closed session pursuant to NRS 281.511(13) to receive and deliberate information or evidence concerning the propriety of the conduct of public officers pursuant to NRS 281.511 and NAC 281.109.

At the request of Michael Montandon, Mayor, City of North Las Vegas, Chairman Jenkins announced that the Commission would not address agenda items 3 or 4.

Agenda Item 4 – Request for Opinion 05-11

Open session to take action on proposed stipulation in the matter of Request for Opinion regarding the conduct of Michael Montandon, Mayor, City of North Las Vegas.

Agenda Item 5 – Request for Opinion 05-11

Open session to hear testimony, receive evidence, deliberate, and render an opinion relating to a Request for Opinion submitted pursuant to NRS 281.511(2)(b), alleging that certain conduct of Michael Montandon, Mayor, City of North Las Vegas, violated the provisions of NRS 281.571(1)(f).

Chairman Jenkins opened this agenda item. Commissioner Keele disclosed a conflict he had because he serves as Resident Agent for the Tonopah and Tidewater Railroad Company, a corporation that is the subject of the complaint against Mayor Montandon. Due to this conflict, Commissioner Keele abstained from discussion and participation in this matter.

Chairman Jenkins also noted that Commissioners Hsu and Flangas were precluded from participation due to their services in the panel proceeding. She further noted that Commissioner Hutchison was not present, and therefore, the remaining four Commissioners would be voting in this matter.

At Chairman Jenkins' request, Ms. Woodbury provided the Commission an overview of the facts and circumstances within the complaint and the results of the staff investigation. The complaint alleged Mr. Montandon violated NRS 281.571(1)(f) by failing to disclose he was an officer with the Tonopah & Tidewater Railroad Company on his calendar year 2004 financial disclosure statement, which was timely filed in January, 2005. Upon receiving the complaint, Mr. Montandon filed an amended financial disclosure statement with the Secretary of State's office and resigned from the board of the Tonopah and Tidewater Railroad Company. In his response, Mr. Montandon stated that he had forgotten that he was asked to be an officer of the corporation, the corporation was inactive, and he never received any money for serving in that capacity. Mr. Montandon admitted that he is guilty of the mistake; however, it was not done willfully.

Chairman Jenkins clarified that his failure to report this information meets the definition of a willful violation under the strict interpretation of NRS 281.4375, that the public officer reasonably should have known that his conduct violated this chapter. She further stated that although it was her inclination to find a willful violation, she would also temper a fine or response to the willful violation according to the severity of the conduct. Commissioner Kosinski moved that the Commission find that the violation was willful pursuant to the provisions of NRS 281.4375. Commissioner Capurro seconded the motion. The motion was put to a vote and passed unanimously.

The Commission then turned their attention to the imposition of a civil penalty. Commissioner Cashman moved for a \$500 civil penalty to be assessed. Commissioner Kosinski seconded the motion. The motion was put to a vote and passed three to one with Chairman Jenkins opposing.

Agenda Item 6 – Request for Opinion 06-04

Closed session pursuant to NRS 281.511, Subsection 5, to hear testimony, receive evidence, deliberate, and render an opinion relating to a confidential Advisory Opinion Request submitted pursuant to NRS 281.511, Subsection 1.

At the opening of this agenda item, Chairman Jenkins asked the subject if confidentiality had been waived in this matter. The subject confirmed that this request for Advisory Opinion had been disclosed to employers, and other members of the public, and therefore, agreed to waive confidentiality in this matter. As a result of this disclosure, Chairman Jenkins made an administrative decision to continue this matter until the next meeting, allowing this item to be posted as an open session for consideration of Request for Advisory Opinion 06-04, submitted by Candice Trummell, Chairman of the Nye County Commission.

A lunch recess was taken at 11:35 a.m.

Agenda Item 7 – Closed Session pursuant to NRS 241.015, Subsection 2(b)(2)

Closed Session pursuant to NRS 241.015, Subsection 2(b)(2), to confer with Legal Counsel regarding pending litigation in which the Commission has supervision, control, jurisdiction, or advisory power; and, if necessary, to deliberate toward a decision on the matter.

Agenda Item 8 - Open Session, if necessary, to take any action as a result of agenda item 7.

No action was necessary under this agenda item. Chairman Jenkins proceeded to agenda item 9.

Agenda Item 9 – Open session to discuss potential legislative issues

Open session to discuss potential legislative issues for the Commission to include in the 2007 Nevada Legislature bill draft request, any potential fiscal and budgetary impact from legislative proposals, and potential budgetary needs for the Commission biennial budget request.

Chairman Jenkins opened the agenda item. Executive Director Stacy Woodbury advised Commissioners that their meeting books contained concepts by Commission staff, the newly recodified version of the Ethics in Government law, a copy of the Commission's bill draft from the 2005 Legislative session (which did not pass in 2005), and a table showing the contested hearings of the Commission from 2003 through 2005 and the civil penalties assessed in those cases.

After discussions regarding the proposed legislative changes, Commissioner Hsu moved that the Commission staff act in accordance with the direction given in the discussion of this agenda item based on the transcript and staff's notes. Commissioner Capurro seconded the motion. The motion was put to a vote and passed unanimously.

Persons wishing to review a verbatim transcript of the open session discussions regarding the proposed legislation prepared by a certified court reporter may do so by contacting the Commission offices in Carson City or Las Vegas.

Agenda Item 10 – Open session for public comment

Chairman Jenkins opened the agenda item for public comment. No public comment was made, and the agenda item was closed.

Chairman Jenkins adjourned the meeting at 4:25 p.m.

Minutes transcribed by:

Minutes approved April 12, 2006

Emily H. Nunez, Office Manager

Caren Jenkins, Esq., Chairman